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مجلس حقوق الإنسان

الدورة السادسة والخمسون

18 حزيران/يونيه - 12 تموز/يوليه 2024

البند 3 من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

زيارة إلى بيرو

تقرير المقرر الخاص المعني بالحق في حرية التجمع السلمي والحق في حرية تكوين الجمعيات، كليمون نيالتسوسي فولبي * *

موجز

أجرى المقرر الخاص المعني بالحق في حرية التجمع السلمي والحق في حرية تكوين الجمعيات، كليمون نيالتسوسي فولبي زيارة رسمية إلى بيرو في الفترة من 8 إلى 17 أيار/مايو 2023 لتقييم الوضع فيما يخص الحق في حرية التجمع السلمي والحق في تكوين جمعيات في البلاد، عملاً بقراري مجلس حقوق الإنسان 21/15 و 12/41.

ويركز المقرر الخاص في هذا التقرير على سلسلة من الاحتجاجات الواسعة النطاق التي تشهدها بيرو منذ كانون الأول/ديسمبر 2022 وردّ الدولة على هذه الاحتجاجات. ويعرب المقرر الخاص عن قلقه إزاء التقارير التي تفيد بإفراط قوات الأمن في استخدام القوة في سياق الاحتجاجات، فضلاً عن اشتداد القيود في القانون والممارسة، الأمر الذي يعوق التمتع الفعلي بالحق في حرية التجمع السلمي وتكوين الجمعيات. ويوصي المقرر الخاص بأن تكفل الحكومة المساءلة، وتعزز الحوار الوطني، وتنفذ إصلاحات قانونية وسياساتية لحماية الحق في حرية التجمع وتكوين الجمعيات، كجزء من التدابير الرامية إلى معالجة الأسباب الكامنة وراء موجات الاحتجاج الأخيرة، ولا سيما استمرار التمييز ضد المجتمعات الريفية للسكان الأصليين وتهميشها. ولا يزال المقرر الخاص ملتزماً بالعمل مع حكومة بيرو وشعبها في جهودهما الرامية إلى الوفاء بالتزامات الدولة بموجب القانون الدولي لحقوق الإنسان.

* يعمم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه، الوارد في مرفق هذا الموجز، فيُعَمَّم باللغة التي قُدِّم بها وباللغة الإسبانية فقط.

** أُثِّق على نشر هذا التقرير بعد تاريخ النشر المعتاد لظروف خارجة عن إرادة الجهة التي قدمته.



الرجاء إعادة الاستعمال

المرفق

تقرير المقرر الخاص المعني بالحق في حرية التجمع السلمي والحق في حرية تكوين الجمعيات، كليمون نيالتسوسي فولبي عن زيارته إلى بيرو

I. Introduction

1. The Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, visited Peru from 8 to 17 May 2023 at the invitation of the Government. The purpose of the visit was to assess the exercise, promotion and protection of the rights under his mandate and to closely assess the situation in the country, following a series of countrywide protests that had begun on 7 December 2022.
2. The Special Rapporteur held meetings in Lima, Cuzco, Puno and Juliaca with a wide range of government officials, civil society representatives and stakeholders, including from the private sector, from all over the country. The Special Rapporteur is grateful to the Government for inviting him to undertake the visit and for facilitating meetings with representatives of government institutions. In particular, the Special Rapporteur met with the President of Peru, the President of the Council of Ministers, and the Minister and Vice-Minister of Justice and Human Rights, as well as with the Minister and high-level officials of the Ministry of Defence, the Minister of the Interior, the Minister of Foreign Affairs and the Minister of Culture, and with the highest-level officials of the Ministry of Transport, the Ministry of the Economy and Finance, the Ministry of Women and Vulnerable Populations, the Ministry of the Environment, the Ministry of Energy and Mines, the Ministry of Foreign Trade and Tourism, the Tribunal of Transparency and Access to Public Information, the National Police of Peru, the Joint Command of the Armed Forces, and representatives and members of the National Penitentiary Institute, and of the multisectoral commission related to the protests. The Special Rapporteur is also grateful for the meetings and exchanges of views with the Public Prosecutor's Office, the President of the Supreme Court of Justice of the Republic and of the Judiciary, the President of Congress, and representatives of the Constitutional Court, the judiciary, the National Electoral Authority, the National Office of Electoral Processes, the National Registry of Identification and Civil Status and the Office of the Ombudsperson.
3. Following his meetings in the capital, the Special Rapporteur also visited Cuzco, Juliaca and Puno, where he exchanged views with regional and local institutions, judicial and prosecutorial authorities, and representatives of the military and the police, as well as with victims and civil society organizations. He also met online with authorities in Ayacucho.
4. Throughout his visit, the Special Rapporteur met with hundreds of non-governmental organizations (NGOs) and civil society representatives and stakeholders from different districts of the country. They included victims and representatives from Indigenous, campesino and rural communities, academics, students, lawyers, journalists and trade unionists, as well as various human rights defenders and civil society networks.
5. The Special Rapporteur also visited the detention centre of Qqencoro in Cuzco, where he met with detainees arrested during protests; police stations which served as detention centres in Lima; and the penitentiary of Barbadillo, where he met with the former President, Pedro Castillo.
6. The Special Rapporteur wishes to thank, among others, the national coordinator of the civil society human rights network; the Ombudsperson at the time of his visit; and Peruvian non-governmental organizations (NGOs), associations, trade unions, protesters, Indigenous leaders, environmental defenders, communal and youth leaders, journalists, women and girls, and LGBTI defenders who took the time to meet with him and recounted their experiences on civic space, democratic rights and peaceful protest in Peru today. He also wishes to express his gratitude to the Resident Coordinator, to the International Labour Organization

(ILO) for its prompt cooperation, and to all United Nations agencies in the country for their support.

7. Following his visit, the Special Rapporteur highlighted the cooperation of the Government of Peru with the United Nations human rights mechanisms, including with the special procedures of the Human Rights Council. He thanked and offered his technical cooperation to the President, Dina Boluarte, and all those government and State authorities who gave of their time to meet with him and address his questions and concerns. The Special Rapporteur noted the coordination by the Ministry of Foreign Affairs – among others – which facilitated his visit in a spirit of full and effective cooperation.

8. The present report provides an analysis of the situation of the country from the perspective of freedom of assembly and association, with a focus on the wave of protests that took place between December 2022 and February 2023, and in July 2023, and assesses the latest developments in the country up until February 2024. The Special Rapporteur presents his findings and recommendations in a spirit of shared commitment and support in relation to the obligations of Peru to promote and protect human rights.

II. Legal framework

A. International legal framework

9. Peru ratified the International Covenant on Civil and Political Rights on 28 April 1978, thereby committing to respecting, protecting and fulfilling the rights to freedom of peaceful assembly and of association as provided in articles 21 and 22 of the Covenant, and is a party to various international and regional treaties that safeguard fundamental freedoms, including the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), and the American Convention on Human Rights.¹ The standing invitation issued to special procedure mandate holders, the recent reviews under the universal periodic review process, in January 2023,² and by the Human Rights Committee, in March 2023,³ and the visit by the Inter-American Commission on Human Rights in December and January 2023⁴ demonstrate the engagement of Peru in human rights assessments.

10. Articles 21 and 22 of the International Covenant on Civil and Political Rights guarantee the rights to freedom of peaceful assembly and of association. These rights are essential to the full enjoyment of other human rights and freedoms. They constitute fundamental pillars for building a democratic society, strengthening democracy, and enabling the participation and mobilization of all stakeholders in support of the implementation of international human rights standards. The obligation to protect involves preventing third parties from impeding these rights, including businesses and private individuals. The obligation to fulfil requires States to facilitate, promote and provide for the full realization of those rights through appropriate legislative, administrative, judicial and other measures.

11. International human rights law guarantees the rights to freedom of peaceful assembly and of association to everyone without distinction. Specific provisions acknowledge these rights for specific groups, including Indigenous and rural communities, and trade unions. Ensuring equal and effective opportunities for making views known and for participating in decision-making processes is strongly emphasized under international human rights law.

12. The Inter-American Court of Human Rights, in *Atenco v. Mexico*, enshrined the right to protest as means to dissent against State actions, encompassing both private and public gatherings. The judgment recognizes that the assembly must be peaceful and unarmed, but it

¹ See

https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=136&Lang=EN and <https://treaties.un.org/pages/showdetails.aspx?objid=08000002800f10e1>.

² See [A/HRC/53/8](#).

³ See [CCPR/C/PER/6](#).

⁴ See <https://www.oas.org/es/cidh/informes/pdfs/2023/Informe-SituacionDDHH-Peru.pdf>.

also concludes that the victims in the case, who were protesting against the local authority in the context of a roadblock, were lawfully exercising their right to assembly.

13. Effective enjoyment of the rights to peaceful assembly and association relies on the respect, protection and fulfilment of interlinked human rights. This includes the rights to freedom of expression and of information, the right to participate in public affairs, the right to work, and to form trade unions, and the right to a fair trial and effective remedy. The inclusivity of these rights, along with the recognition of specific groups, underscores the importance of fostering a democratic society where individuals can actively engage, dissent peacefully, and contribute to decision-making processes. The mentioned legal framework and international obligations set the foundation for the protection and promotion of these rights.

B. National legal framework

Right to peaceful assembly

14. Article 2 (12) of the Constitution of Peru recognizes constitutionally the right to freedom of peaceful assembly, and further specifies that “meetings on any premises, whether private or open to the public, do not require prior notification”. This article further states: “Meetings held in squares and public thoroughfares require advance notification to the relevant authority, which may prohibit such meetings solely for proved reasons of public safety or public health.” Such requirement should not be interpreted as an authorization, but rather a request for guarantees for public gatherings of a social nature. Therefore, the granting of guarantees under this provision should not be interpreted as a general request for notification or authorizations to march, but rather to explain how public authorities should protect and facilitate protest. It is important to note that general comment No. 37 (2020), of the Human Rights Committee, underlines a presumption in favour of considering that assemblies are peaceful.

15. Domestic jurisprudence, through the 2016 “Baguazo” decision, acknowledged the legitimacy of restricting movement during peaceful protests; the decision absolved Indigenous protesters who had peacefully blocked a highway to protest government regulations relating to a free trade agreement, land privatization and exploitation.

16. The Constitutional Court has expressly ruled on the unconstitutionality of restrictions on marching in the historic centre of Lima.⁵ See, among others, Ordinance No. 1680-2013 of the Metropolitan Municipality of Lima, which expressly determines that “no authorization will be required for road interference for peaceful demonstrations and meetings of a political nature held on public roads”.

Right to association

17. In its article 2.13, the Constitution states that every person has the right “to associate and to set up foundations and other forms of not-for-profit legal organizations, without prior authorization, and in accordance with the law. These organizations may not be dissolved by an administrative order.”

18. Article 28 of the Constitution acknowledges the rights of unions to unionize, and to collective bargaining, and striking, with provisions ensuring democratic governance. It guarantees freedom of association, encourages peaceful conflict resolution, and regulates strikes in harmony with social interests, detailing exceptions and limitations. The Constitution mandates State measures to safeguard workers’ and employers’ freedom of association, while also regulating union actions, ensuring voluntary unionization, and prohibiting interference with employment on the basis of union membership.⁶

19. Article 35 states that citizens may exercise their rights individually or through political parties, movements or alliances, and that such organizations help form and express the will

⁵ See <https://tc.gob.pe/jurisprudencia/2005/04677-2004-AA.pdf>.

⁶ See <https://leglobal.law/countries/peru/employment-law/employment-law-overview-peru-2/10-trade-unions-and-employers-associations/>.

of the people. The law also establishes standards aimed at ensuring the democratic operation of political parties, transparency regarding the source of their financial resources, and access to the government-owned media proportionate to the results of the last general election.

20. Additionally, the Constitution guarantees freedom of opinion (art. 2 (4)), participation in political and cultural life (art. 2 (17)) and the right to raise petitions before authorities individually or collectively (art. 2 (20)).

21. In 2021, Supreme Decree No. 003-2021-IN⁷ introduced administrative sanctions for protesting without authorization, citing reasons related to public order. The decree indirectly establishes a system of prior authorization, from the Ministry of the Interior, through a non-law regulation, while imposing fines that deter protesters from coordinating with authorities. Additionally, article 16 (1) of the same decree requires protesters to inform authorities seven working days prior to a demonstration, which is impossible for spontaneous protests. This conflicts with the requirement in the Constitution for laws to be interpreted in line with international human rights agreements ratified by Peru, with constitutional provisions and international standards protecting and facilitating protests.

22. On 17 May 2023, the last day of the Special Rapporteur's visit, the Supreme Court issued Cassation Ruling No. 1464-2021/Apurímac.⁸ The Supreme Court's decision failed to recognize the right to protests as a fundamental right,⁹ suggesting that peaceful protests were not exempt from being considered a criminal offence. This decision curtailed the right to protest peacefully, contradicting the above-mentioned jurisprudence and general comment No. 37 (2020) of the Human Rights Committee.

23. In Peru, legislative powers primarily reside in the Congress of the Republic, unless delegated to the executive branch. However, Law No. 31880,¹⁰ enacted in September 2023, granted the executive branch the authority to legislate on citizen security through legislative decrees, which in the Peruvian regulatory system of sources are norms that have the rank of law, enabling the executive branch to amend the Criminal Code and the Code of Criminal Procedure, in the section corresponding to crimes against public security and of disturbing the peace, and to modify the crime of rioting. The proposed changes include punishing "instigators of rioting", enhancing identity control rules, and granting the police investigative powers previously exclusive to the Public Prosecutor's Office. The Special Rapporteur notes that the power of the executive branch to legislate is not unlimited, and that this implies the obligation of the executive branch to account to the legislative branch for each decree issued. However, this shift raises concerns about a concentration of power and the potential impacts on human rights.

24. Legislative Decree No. 1589,¹¹ adopted by the executive branch, amended Penal Code articles 315 (disturbances) and 283 (disturbance to the functioning of public services), on the grounds of citizen security, and introduced aggravating actions. Regarding the crime of rioting, two modifications are of concern: (a) the incorporation of the obstruction of land routes and infrastructure as a crime, introducing punishments of up to 15 years of prison; and (b) the incorporation of the modality of collaboration, including by providing funding or objects that contribute to the crime of rioting, introducing punishments of up to six years of prison; with the ultimate result of further criminalizing protests. In fact, the legislation established, as aggravating circumstances, physical harm to persons or serious damage to public property. The Special Rapporteur notes that articles 315 and 283 are alleged to have often been misused to criminalize protesters, contradicting the nature of the freedom of assembly itself.

25. The Constitution prohibits the restriction, on general grounds, of places for protest. However, on the basis of municipal regulations, such as Council Agreement No. 26 of

⁷ See <https://www.gob.pe/institucion/mininter/normas-legales/1844912-ds-003-2021-in>.

⁸ See <https://img.lpderecho.pe/wp-content/uploads/2023/05/Casacion-1464-2021-Apurimac-LPDerecho.pdf>.

⁹ *Ibid.*, see especially pp. 17–20, 22 and 23.

¹⁰ See <https://busquedas.elperuano.pe/dispositivo/NL/2218364-1>.

¹¹ See <https://busquedas.elperuano.pe/dispositivo/NL/2241404-1>.

10 February 2023 of the Municipality of Lima,¹² security forces frequently prevent demonstrations from taking place in places such as the Plaza de Armas – where the Government Palace is located – or in front of the Congress of the Republic. In addition, it has become commonplace for security bars to be installed on public roads to block the holding of demonstrations. Recently, peaceful demonstrations by Indigenous communities have been organized to protest against Law No. 31973 amending the Forestry Law, which poses a threat to the sustainable development of the Amazon, allowing for deforestation without prior consultation with Indigenous and native communities, and restricting the political participation and decision-making rights of Indigenous Peoples.¹³

26. With regard to the latest developments in the legal and policy framework, and the Apurímac decision, the Government explained that “the Supreme Court, the highest instance of the judiciary, recognizes protest as an implicit right within freedom of expression and freedom of assembly, which should not infringe on, transgress or violate fundamental and constitutional rights such as to life, personal integrity, public safety, traffic flows or property”.

27. While noting the Government’s observations, the Special Rapporteur concluded that, in practice, since December 2022, Peru has faced major legal restrictions on the right to assembly and association, and that there is a trend within the latest legal and policy framework to further restrict these rights. This includes continuous states of emergency, the declaration of restricted zones and the prohibition of demonstrations, and the Supreme Court’s apparent lack of recognition of the right to protest among fundamental human rights. Although these rights are constitutionally protected, in practice legal procedures, jurisprudence and State actions create significant obstacles to their effective realization, conflicting with international human rights standards, including that any restrictions must meet the requirements of proportionality and reasonableness enshrined in article 21 of the International Covenant on Civil and Political Rights.

Counter-terrorism and national security

28. Following the period of violence between 1980 and 2000, and the country’s experience of the Shining Path (Sendero Luminoso), Peru has not had an effective process of truth and reconciliation, despite the fact that Law No. 28592 created the Comprehensive Reparations Programme for the victims of the violence that occurred in the period from May 1980 to November 2000, in accordance with the recommendations of the Truth and Reconciliation Commission.¹⁴ The Truth and Reconciliation Commission was established in 2001 and presented its final report in August 2003.¹⁵ However, the Commission’s recommendations have never been fully implemented. The Commission estimated that the 20 years of violence had resulted in the death or disappearance of some 69,000 people, with 75 per cent of those killed belonging to low-income rural and Indigenous communities and having Quechua or other Indigenous languages as their mother tongue.¹⁶ The trauma of this period of violence remains very much present in Peruvian society today.

29. In the Peruvian context, the term *terruqueo* refers to the practice of classifying political opponents or dissidents as people linked to terrorist organizations, leading to their stigmatization and social isolation. Given the country’s recent history of conflict against a terrorist movement, the accusation of being a *terruco* is particularly severe, and it has been used in the context of recent protests to stigmatize and revictimize protesters and to legitimize violent acts committed against them.

30. Human rights mechanisms have raised concern about the vague definition of the term terrorist as established in the Anti-Terrorism Act (Decree Law No. 25475). In particular, the Human Rights Committee has emphasized that such a definition may lead to arbitrary abuses,

¹² See <https://www.ipdu.pe/legislacion/ordenanza/1680-MML.pdf>.

¹³ See <https://www.ohchr.org/en/press-releases/2024/02/peru-changes-forestry-law-will-threaten-survival-indigenous-peoples-un>.

¹⁴ See <https://www.gob.pe/institucion/congreso-de-la-republica/normas-legales/1496834-28592>.

¹⁵ The Commission was set up by Decree No. 065-2001-PCM of 4 June 2001. It was composed of 12 members and it released its 8,000-page final report on 28 August 2003.

¹⁶ Truth and Reconciliation Commission, final report, 28 August 2003, pp. 53–55.

and to persons exercising their rights to protest, expression, thought, assembly and political participation being associated with behaviours or ideas inspired by terrorism. Therefore, the implementation of this kind of legal provision within the framework of social protests is a matter of primary concern, as many protesters have consequently been labelled as terrorists or insurgents.

31. Pursuant to article 137 of the Constitution, two exceptional regimes are recognized in Peru: (a) state of emergency and (b) state of siege. The former applies in situations of disturbance of the peace or of order, disaster, or serious circumstances affecting the life of the nation, and it suspends certain constitutional rights under such conditions.

32. Regarding the information received on militarization and states of emergency, in its judgment No. 945/2020 (Exp. No. 00964-2018-PHC/TC APURIMAC), the Constitutional Tribunal prohibited the executive from using states of emergency indiscriminately throughout the country. In fact, the use of states of emergency in situations of social protest has been recurrent in recent years, especially in 2018, 2019, 2020 and 2022.¹⁵ In this regard, the Special Rapporteur notes a pattern of states of emergency being misused as a response to situations of social conflict and protest, which is contrary to article 4 of the International Covenant on Civil and Political Rights, and he considers that there is a need for additional control mechanisms other than the *ex post* judicial control currently in place. The restrictions on the places where protests can be held, including on the grounds of a state of emergency, further contribute to undermining the right to peaceful assembly.

33. On 14 December 2022, by means of Supreme Decree No. 143-2022-PCM of the executive branch, a state of emergency was declared. Since then, it has been extended on 19 occasions,¹⁷ and remains in place as of February 2024 through Supreme Decree No. 137-2023-PCM.¹⁸ The misuse of this legal regime in the context of protests is reflected in the tragic events in different locations of the country, but also in the interventions by security forces in premises of the Confederación Campesina del Perú in December 2022, and of the Universidad Nacional Mayor de San Marcos on 21 January 2023.

34. This is particularly affecting Indigenous communities, who, because of the remoteness of institutional mechanisms of expression, see in the exercise of their right to assembly and demonstration a viable alternative to make themselves heard.

35. The Special Rapporteur also noted that armed forces were frequently solicited to intervene in situations of social protest, with or without a declaration of emergency.¹⁹

III. Main findings

A. Root causes of protests

36. The right to protest is a part of the right to peaceful assembly, serving as a means for people to voice grievances and demand political and social change in democratic societies. Protests also offer authorities an opportunity to engage in dialogue with communities and to acknowledge and address the challenges they face. Therefore, protests represent an essential component of any democratic society.

37. The Special Rapporteur emphasizes the importance of understanding and addressing the root causes of the recent protests, which began on 7 December 2022,²⁰ and the historical pattern of human rights violations and alleged excessive use of force against protesters. According to the reports received, between 2003 and November 2022, 164 civilians reportedly died due to police and military actions in response to protests, with 65 per cent

¹⁷ See, for example, Supreme Decree No. 009-2023-PCM.

¹⁸ See <https://busquedas.elperuano.pe/dispositivo/NL/2242661-1>.

¹⁹ Legislative Decree 1095, art. 4 (3).

²⁰ According to the Government, the sectors most affected by the latest social protests were services and firms, with more than 360,546 firms affected (45.6 per cent), transportation 8.8 per cent (69,297 companies), hotels and restaurants 6.0 per cent (47,589 companies), and manufacturing 9.5 per cent (75,236 companies), among others.

occurring in socio-environmental conflicts linked to natural resource management.²¹ Issues such as corruption, impunity, drug trafficking, systemic pollution, and contamination from the extractive industry and the mining sector have been central to historical protests, particularly in rural areas. The majority of victims in these conflicts were Indigenous and rural community members and leaders. Moreover, rural community leaders face legal prosecution for denouncing land-related crimes or protesting against extractivism.

38. Despite Peru having one of the highest economic growth rates in the twenty-first century,²² wealth distribution remains unequal, especially in historically neglected provinces which lack improvements in the areas of education, health and basic services. Lack of political representation, exclusion from decision-making, and limited access to rights catalyse protests. Deep disparities persist in service access and quality, particularly for those in poverty and between rural and urban areas, a gap exacerbated by the pandemic, echoing global trends in inequality.

39. Years of political instability, combined with historical social issues and conflicts, escalated in December 2022. On 7 December 2022, the then President, who had been elected with the majority support of voters in the southern Andean region,²³ attempted to dissolve the Congress of the Republic and reorganize the judiciary and the Public Prosecutor's Office. He also announced his decision to govern by decree. He was dismissed by Congress, in which the majority of the members belonged to the opposition, and was arrested on charges of "rebellion" and "breaking the constitutional order" after he announced the "dissolution of Congress". Subsequently, the Vice-President, Dina Boluarte, succeeded him as President. Protests then erupted throughout the country, mainly calling for early elections, the dissolution of Congress, the resignation of Ms. Boluarte as President, cessation of the instrumentalization of democratic institutions to favour corruption and impunity, and the release of the former President, Mr. Castillo. The protests continued to occur until July 2023, with varying periods and peaks of intensity.²⁴ According to the Government, the actions carried out by Mr. Castillo constituted a breach of the constitutional order (a coup d'état).

40. In addition, in July 2023, human rights organizations and Indigenous Peoples' defenders demonstrated in different regions of Peru for the same concerns that had sparked the prior waves of protests, demanding justice for the victims, and against alleged State impunity and corruption and the complicity of officials.²⁵

41. As for the wave of protests that took place between December 2022 and February 2023, the Special Rapporteur noted that they were rooted in a context of pervasive structural discrimination and inequalities.²⁶ Despite the legal framework²⁷ and the efforts and practices undertaken by the Government to combat discrimination,²⁸ underlying racism and widespread criminalization and discrimination allegedly characterized the State's response to social protests against legislative and government powers that overlooked communities' primary concerns, particularly affecting Indigenous and peasant communities in the South, intensifying societal isolation and violence. This neglect fuelled protests and undermined trust in institutions. Labelling protesters as *terrucos* or *senderistas*²⁹ worsened divides, with

²¹ See CERD/C/PER/CO/22-23, and the National Coordinator for Human Rights database at https://docs.google.com/spreadsheets/d/1Cbx3ceqy_LoOVgEMyuN8x2sSA9ly0TbH/edit?usp=sharing&oid=117267462117337581816&rtpof=true&sd=true.

²² See <https://www.worldbank.org/en/country/peru/overview>.

²³ See <https://twitter.com/globovision/status/1402039751247642625/photo/1>.

²⁴ See <https://www.oas.org/es/cidh/informes/pdfs/2023/Informe-SituacionDDHH-Peru.pdf>.

²⁵ Some of the demonstrations in 2022 and 2023 were carried out under the name "Toma de Lima".

²⁶ Fewer than 1 per cent of the complaints of discrimination in Peru in the past 22 years have resulted in a criminal sentence; see <https://data.larepublica.pe/discriminacion-en-peru-menos-del-1-por-ciento-de-denuncias-tuvieron-sentencia-penal-en-los-ultimos-22-anos-fiscalia/>.

²⁷ Article 2 of the Constitution and articles 46 (2) (d) and 323 of the Penal Code.

²⁸ Supreme Decree No. 042-2023-PCM of 25 March 2023, art. 4 (1)–(3).

²⁹ Members of the Shining Path.

uncorrected racist remarks from high-level officials exacerbating discriminatory stigmatization and social divisions, reflecting entrenched classism.³⁰

B. Allegations received regarding protests from December 2022 to February 2023

42. The Special Rapporteur noted that most of the demonstrations were carried out peacefully.³¹ Following his visit, he shared the concern expressed by the Human Rights Committee³² and other human rights mechanisms about reports of the excessive use of force and alleged human rights violations perpetrated by armed forces within the context of the State's response to social protest, rooted in and compelled by social and historical discrimination against Indigenous Peoples in the social, political and economic spheres of the country. They observed that human rights violations occurred, allegedly, due to: (a) the excessive use of force by security forces, including the use of lethal weapons against unarmed protesters; (b) the lack of implementation of adequate protocols for the use of force and of mechanisms for control and supervision of the security forces, in accordance with international standards; and (c) the stigmatization and criminalization of social protests.

43. These included cases of excessive, indiscriminate and disproportionate use of force and firearms, extrajudicial executions, mass arbitrary detentions and pretrial detentions, and cases of racist or discriminatory violence by security forces, especially against Indigenous and peasant people. This happened in Lima, but especially in rural areas that have historically been disadvantaged and subject to structural discrimination, such as in Apurímac, Ayacucho, Arequipa, Cuzco, Junín, La Libertad, and Puno.³³

44. In this regard, the Government indicated that, in March 2023, it had launched the twelfth training course for instructors, which provides human rights training to police officers.³⁴ Additionally, Peru had signed a memorandum of understanding with the Office of the United Nations High Commissioner for Human Rights on 27 February 2023 and technical support and assistance had been provided to the Public Prosecutor's Office consisting of 30 training courses on human rights issues. Collaboration between the Public Prosecutor, through the special team of prosecutors for cases of victims in the context of the social protests, and the Institute of Legal Medicine and Forensic Sciences, was aimed at training and supporting personnel handling investigations related to social protests.

45. According to the Ombudsperson, between 7 December 2022 and 20 February 2023, 1,327 protests, 882 mobilizations, 240 shutdowns (*paralizaciones*), 195 rallies and sit-ins, 10 vigils and 60 peace marches were registered.³⁵

46. During his visit, the Special Rapporteur received reports of killings, the arbitrary arrest and detention of protesters, torture and enforced disappearance, and the alleged disproportionate, indiscriminate and lethal use of force by law enforcement officers, accompanied by factors such as high casualty levels, in several cases directed at victims not directly involved in protests.

47. As regards the number of casualties, during protests between 7 December 2022 and 30 March 2023, 50 civilians were killed and at least 821 people were injured, allegedly by

³⁰ See <https://ojo-publico.com/derechos-humanos/emergencia-peru/cidh-denuncia-terruqueo-y-estigmatizacion-parte-autoridades>.

³¹ See <https://www.ohchr.org/sites/default/files/documents/issues/association/statements/20230517-eom-peru-sr-freedom-assembly-association-en.pdf> and <https://www.ohchr.org/en/pressreleases/2023/05/peru-un-expert-calls-accountability-and-political-reform-overcome-crisis>.

³² See [CCPR/C/PER/CO/6](https://www.unhcr.org/refugees/cpr/cpr-peru-co-6).

³³ See <https://www.defensoria.gob.pe/wp-content/uploads/2023/03/Informe-Defensorial-n.%C2%B0-190-Crisis-poli%CC%81tica-y-protesta-social.pdf>.

³⁴ See <https://www.gob.pe/institucion/mininter/noticias/729494-ministerio-del-interior-capacita-a-instructores-en-derechos-humanos-aplicados-a-la-funcion-policial>.

³⁵ See <https://www.defensoria.gob.pe/wp-content/uploads/2023/03/Informe-Defensorial-n.%C2%B0-190-Crisis-poli%CC%81tica-y-protesta-social.pdf>.

security forces³⁶ in nine regions of Peru in the context of the protests, including Puno, Ayacucho, Apurímac, Cuzco, La Libertad, Arequipa, Junín, San Martín and Lima. Most of them belonged to Indigenous and rural communities from the south of the country. At the same time, the Government reported that, during operations in the context of the protests, 980 members of the National Police and 36 members of the Armed Forces had been injured and one policeman and six members of the Armed Forces had been killed.³⁷

48. In 2023, civil society organizations indicated that 49 civilians had allegedly died in the context of use of force by security forces, 42 of them killed by firearm ammunition³⁸ and one due to torture during detention.³⁹ Another 11 civilians died in the context of road blockades, in accidents or because of lack of medical attention.⁴⁰

49. The latest evidence available indicates that 50 civilians reportedly died.⁴¹ According to OHCHR and autopsy reports, 47 of the 50 civilians killed were shot in the upper body (the head, the chest, the back or the abdomen). Of the 50 civilians killed, 27 were under the age of 25, 7 under the age of 18. Many others were injured, including at least 28 minors, 7 of whom were seriously injured. The disaggregated data reported indicates that: “Seven civilians were killed in Apurímac (five in Andahuaylas, one in Chincheros and one in Aymaraes) (all men); three in Arequipa (one in Caravelí and two in Arequipa) (all men); 10 in Ayacucho (Ayacucho) (all men); two in Cuzco (Cuzco) (all men); 21 in Puno (two in Carabaya, 18 in Juliaca and one in Ilave) (two women and 19 men); two in Lima (both men); three in Junín (Pichanaki) (all men); and two in La Libertad (Virú) (both men). Of the cases of deceased persons documented, 79 per cent of their relatives self-identified as being of Indigenous origin (Quechua or Aymara). According to the allegations received, the highest numbers of people killed or injured during demonstrations were at three main times: (a) on 11 and 12 December 2022 in Chincheros and Andahuaylas, Apurímac, when seven people were killed and at least 45 were injured (with the police present); (b) on 15 December 2022 in Huamanga, Ayacucho, when 10 people were killed and at least 64 were injured (with the police and the Armed Forces present); and (c) on 9 January 2023 in Juliaca, Puno, when 17 people were killed and more than 100 were injured (with the police and the Armed Forces present).⁴²

50. Although the military should not be used to manage protests, evidence suggests that joint police-military operations were undertaken during the protests.⁴³ The involvement of the Armed Forces, in the context of the state of emergency, contributed to heightening tensions, as seen, for example, in the case of the deployment of the Armed Forces on 15 December 2022. This presence appears to have contributed to the decision by protesters to enter the airport, as “the large police/military deployment and the presence of military equipment may have added to an atmosphere of confrontation and intimidation, and

³⁶ See <https://www.ohchr.org/sites/default/files/documents/countries/peru/Peru-Report-2023-10-18-EN.pdf>.

³⁷ Ibid.

³⁸ See <https://derechoshumanos.pe/informe-anual-2023/>. According to the Government, 49 people died as a direct result of the protests, seven people died as an indirect result of the protests (in traffic accidents or as a consequence of health complications due to road blockades), one police officer died and six members of the army died. Government report, para. 257, citing Ministry of Justice and Human Rights report No. 26-2023-CR-ST of 16 August 2023.

³⁹ See the case of necropsy protocol 074-2023.

⁴⁰ See <https://www.ohchr.org/sites/default/files/documents/issues/association/statements/20230517-eom-peru-sr-freedom-assembly-association-en.pdf>.

⁴¹ Ibid.

⁴² Ibid.

⁴³ See <https://www.nytimes.com/2023/03/16/world/americas/peru-protests-police.html>, <https://www.nytimes.com/2023/05/24/world/americas/peru-protests-killings.html>, <https://www.nytimes.com/2023/05/24/world/americas/peru-protests-killings.html>, <https://www.nytimes.com/2023/01/17/world/americas/peru-protests-democracy.html>, <https://www.nytimes.com/2023/01/22/briefing/peru-protests.html> and <https://latamjournalismreview.org/es/articles/reportaje-de-medio-peruano-idl-reporteros-ganador-del-premio-gabo-muestra-alcance-del-periodismo-de-reconstruccion-para-cubrir-represion-social/>.

aggravated tensions, thus increasing the risk of violence and use of force”.⁴⁴ Regarding the airport incidents, the Special Rapporteur sought video evidence, but the military advised that such video evidence had been lost – highlighting challenges in verifying and addressing allegations.

51. Reports noted that the military and police interventions were allegedly concentrated on specific dates: on 11 and 12 December 2022 in Andahuaylas and Chincheros (Apuurímac); on 15 December 2022 in Ayacucho; on 17 December 2022; on 9 January 2023 in Juliaca (Puno); on 21 January 2023 at the Universidad Nacional Mayor de San Marcos in Lima; and on 9 February 2023 in Iscahuaca (Apuurímac).⁴⁵

52. Concerning the use of non-lethal weapons, reports indicate the alleged widespread use of tear gas and pellet guns during the protests, which caused serious injuries to protesters and civilians, and constituted an unnecessary escalation of force by law enforcement authorities, violating international standards. Tear gas was deployed even in residential areas, harming non-protesters, including women, children and the elderly. In Ayacucho and Juliaca, the Armed Forces reportedly launched projectiles containing chemical agents from helicopters.⁴⁶

53. According to OHCHR, and information provided by civil society, evidence shows the use of lethal weapons by security forces, including IMI (Israel Military Industries) or IWI (Israel Weapon Industries) Galil, or compatible, rifles, during protests in various regions. Civilians injured by gunfire predominantly suffered upper body wounds, resulting in permanent physical consequences for many. These actions raise significant human rights concerns and require urgent attention to prevent further harm to civilians and ensure accountability for security forces’ actions.⁴⁷

54. Access to health care during the protests was compromised, and according to the reports received, authorities allegedly failed to provide prompt assistance. Injured individuals were often initially treated by bystanders or volunteer health groups, and transportation to medical facilities was inadequate, with many being transported in unsuitable vehicles, such as by motorcycle.⁴⁸

55. During interviews with communities, law enforcement officials and State authorities, it was revealed that violent elements had allegedly infiltrated protests, causing significant damage to public and private property. Law enforcement officials reported injuries sustained during protest responses. While condemning all violence during protests, the Special Rapporteur called for prompt and impartial investigations, ensuring judicial guarantees for the accused. It was reiterated that force should only be used proportionately and as a last resort. Based on information gathered, there were no indications that the use of lethal force by security forces was in response to imminent threats to life, as required by international human rights standards.⁴⁹

56. During his visit, the Special Rapporteur expressed concern over reports of arbitrary arrests and abuse of pretrial detention, aimed at discouraging participation in assemblies, and leading to numerous individuals being detained without fair judicial process or evidence and without access to justice. Social protests led to numerous arrests, with the situation made worse by excessive restrictions on protest sites. Between December 2022 and March 2023, at least 988 civilians were detained in the context of protests and identity checks, with 871 such detentions reported by the Public Prosecutor’s Office nationwide.⁵⁰ The Special Rapporteur noted reports of arbitrary detention, particularly of protesters belonging to Indigenous and rural communities, including cases of minors and adolescents. Prolonged

⁴⁴ See <https://www.ohchr.org/sites/default/files/documents/countries/peru/Peru-Report-2023-10-18-EN.pdf>.

⁴⁵ See <https://www.defensoria.gob.pe/wp-content/uploads/2023/03/Informe-Defensorial-n.%C2%B0-190-Crisis-poli%CC%81tica-y-protesta-social.pdf>.

⁴⁶ See <https://www.ohchr.org/sites/default/files/documents/countries/peru/Peru-Report-2023-10-18-EN.pdf>.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid.

pretrial detentions, based on criminal association or terrorism charges, allegedly often involved denial of legal representation and arose out of identity checks.⁵¹

57. Reports of ill-treatment and allegations of torture of detainees, especially in Apurímac, Cuzco and Puno, were also collected. Security forces were accused of allegedly harassing and intimidating protesters, preventing individuals from exercising their right to peaceful protest, and retaliating against demonstrators. There were instances of mass and random arrests and police raids, including an incident at the Universidad Nacional Mayor de San Marcos in Lima, where police forces violently entered the university and deprived 192 people of their liberty, including students, pregnant mothers, mothers with children, older adults, persons with disabilities and people belonging to Indigenous and rural communities.⁵² However, to date, all proceedings have been closed for lack of evidence.

58. In regard to another round of mobilization and peaceful protest that took place in the capital between 19 and 22 July 2023,⁵³ the Special Rapporteur noted that the Government's response had not resulted in any deaths. However, the Special Rapporteur received allegations about police practices that would violate international standards on the proper management of demonstrations.

59. The allegations were of practices such as stigmatization of demonstrators, abusive identity checks and searches carried out with the aim of intimidating protesters, arbitrary arrests, attacks on journalists, aggression against human rights observers and health-care personnel, the use of undercover troops and of unregulated instruments against demonstrators (such as sticks and iron rods), unjustified dispersal and arbitrary use of force against peaceful demonstrators, including by tear gas, tonfa blows and rubber bullets, the closure of evacuation routes, crime prevention prosecutors criminalizing social leaders at the national level through preventive denunciations, and not acting to protect demonstrators.⁵⁴

IV. Main groups affected

60. Most of protesters and victims in the context of the protests are from Indigenous communities (Quechua or Aymara) or rural areas, especially in the south of the country. Following his visit, the Special Rapporteur highlighted the urgent need to take appropriate measures to investigate crimes against Indigenous Peoples, to guarantee their access to justice and to take effective action to promote their rights, in line with international human rights standards, including the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), ratified by Peru, as well as the recommendations of human rights mechanisms.

61. During his visit, the Special Rapporteur met with several trade unions, who reported cases of violence, intimidation and harassment during protests. In this regard, the Special Rapporteur drew the Government's attention to the importance of promoting social dialogue as a pillar of social cohesion. Recalling the crucial importance of social dialogue and consultation with organizations of employers and workers for the preparation and development of legislation on freedom of association, he regretted that legislative changes and other measures were still needed in order to ensure the realization of this right in the country, including adequate protection against anti-union discrimination. In this respect, he urged the Government to promote social dialogue with employers' and workers' organizations, and to agree on the amendment of the national legislation and national practice, in line with the recommendations of the supervisory bodies of ILO concerning the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), both ratified by Peru.

⁵¹ See <https://www.defensoria.gob.pe/informes/informe-defensorial-n-190/> and <https://www.ohchr.org/sites/default/files/documents/countries/peru/Peru-Report-2023-10-18-EN.pdf>.

⁵² See <https://www.defensoria.gob.pe/wp-content/uploads/2023/03/Informe-Defensorial-n.%C2%B0-190-Crisis-poli%CC%81tica-y-protesta-social.pdf>.

⁵³ See https://www.defensoria.gob.pe/categorias_de_documentos/reportes/.

⁵⁴ Submission by civil society organizations.

62. Regarding other groups affected, the Special Rapporteur received a number of allegations about attacks against journalists, who reported physical attacks, intimidation and threats within the context of the protests, including damage to their cameras and equipment, recurrent identification procedures and alleged arbitrary detention by law enforcement officers, with the highest concentration of such allegations in Lima. Allegedly, many journalists have been targeted for covering the protests and pointing out that most of them were peaceful.⁵⁵

63. The testimonies received also indicated that some media and newspapers had contributed to promoting negative rhetoric against protesters and protest movements, labelling these as terrorist initiatives with a hidden agenda. This had contributed to exacerbating resentment against protesters, and to ostracizing them. While independent media are essential in a democratic society to ensure a plurality of information sources, it is crucial to prevent them from being instrumentalized – especially when the aim is to spread hate speech and stigmatize protest movements, marginalized communities and Indigenous Peoples.

64. Another factor of major concern was the alleged stigmatization and criminalization of human rights defenders, the persistent problematic practices of the State's response within the context of social protests, and the lack of effective protection for defenders at risk. The Human Rights Committee expressed its concern about allegations of insults, threats, harassment and intimidation against human rights defenders, including lawyers, members of the National Electoral Authority and journalists, and the alleged violations of the right to freedom of expression and the right to peaceful assembly that took place in the context of the demonstrations of November 2020 and since 7 December 2022, in particular the excessive use of force against demonstrators and journalists by security forces, resulting in injuries and deaths.⁵⁶

65. In this regard, the Government reported efforts to protect and promote the rights of human rights defenders. In 2019, the Ministry of Justice adopted a "Protocol to guarantee the protection of human rights defenders",⁵⁷ creating an early warning procedure to mobilize the State apparatus and reduce or mitigate these risks. Along with other measures, an intersectoral mechanism for the protection of human rights defenders was created in 2021 by Supreme Decree No. 004-2021-JUS. However, civil society organizations complained about the ineffectiveness of these measures.

66. Article 15 of the Convention on the Rights of the Child states that children have the right to freedom of peaceful assembly. Likewise, article 2 (12) of the Constitution of Peru and article 21 of the International Covenant on Civil and Political Rights state that peaceful assembly is a fundamental right of any individual. However, the Special Rapporteur received reports of alleged irregular interventions carried out at the Universidad Nacional Mayor de San Marcos, on 21 January 2022, involving children. Teenagers, elderly people and peasants were allegedly targeted with arbitrary detention, intimidation and ill-treatment by law enforcement officers. In addition, 11 cases of minors injured were registered in Lima and in Andahuaylas (Apurímac), Ayacucho, Cuzco, Juliaca (Puno), Ica, La Merced (Junín) and Ucayali.

67. Regrettably, the Special Rapporteur received several allegations of sexual violence against women detained in the context of protests, such as intimate searches and inappropriate touching, especially within the context of identification protocols. On this matter, the Government informed the Special Rapporteur that, State institutions had not received complaints of gender-based or sexual violence. Nevertheless, these allegations should be proactively investigated.

⁵⁵ See https://www.defensoria.gob.pe/categorias_de_documentos/reportes/.

⁵⁶ CCPR/C/PER/CO/6, para. 38.

⁵⁷ R.M. No. 159-2019-JUS.

V. Accountability and access to justice, remedies and reparation

68. While the world is looking at the response of the Government of Peru to overcome the current situation, the Special Rapporteur considers the openness of Peru to international and regional human rights mechanisms, and the related follow-up meetings during this political crisis, as a good practice. The Special Rapporteur highlighted the constructive cooperation of the Government of Peru, through the Ministry of Foreign Affairs, with United Nations human rights mechanisms, including with the special procedures of the Human Rights Council. For their part, the Office of the Ombudsperson and his team at the time of the visit served the country as a key actor within the current crisis response.

69. According to civil society reports, access to justice for victims of social protests in Peru remains a significant concern. Regarding the number of victims, it is important to note that the Special Rapporteur received different information on people injured, and emphasizes that it would be a priority to secure prompt and impartial investigations into the allegations received.

70. The Government emphasized that the victims involved in investigations were included in the Victim and Witness Protection and Assistance Programme. However, during the visit, the Special Rapporteur witnessed and received information about underreporting of human rights violations, such as allegations of killings that took place in remote areas such as Apurímac, and observed that victims often turned to the Office of the Ombudsperson and civil society organizations for support, indicating a lack of trust in formal justice mechanisms. Language barriers and limited access to legal assistance further hindered victims, particularly those from Indigenous or rural communities.

A. The judicial system and mechanism involved in investigations into protests

71. In regard to the Peruvian judicial system, it should be recalled that the judiciary and the Public Prosecutor's Office have historically played an important role in combating impunity and upholding human rights. Several judicial rulings have contributed to protecting peaceful protest and association against general restrictions and criminalization. However, challenges persist within the accountability process and the work of the Public Prosecutor's Office, as noted by the Special Rapporteur.

72. The Public Prosecutor's Office (Ministerio Público Fiscal de la Nación), in accordance with articles 158 and 159 of the Constitution, is an autonomous constitutional body whose remit includes promoting judicial actions in defence of the rule of law and the public interests protected by law, securing the impartiality of the judiciary and the public administration, representing society in judicial proceedings, and conducting investigations into crimes, including *ex officio*. Article 159 of the Constitution provides that the Public Prosecutor should initiate and conduct the investigations from the beginning and that the National Police is obliged to comply with the Public Prosecutor's mandate and to act consequentially.

73. However, Legislative Decree No. 1605, from the executive branch,⁵⁸ vests in the National Police powers to investigate crimes and obliges the Public Prosecutor to coordinate accordingly. Matters of particular concern for the independence of the Public Prosecutor's Office in regard to investigations are the amendments to articles 60, 65 and 332 of the Code of Criminal Procedure.

74. In the context of the protests, allegations received show that the Prosecutor's Office for the Prevention of Crime would have tended to investigate and prove the involvement of protest leaders at the national level through preventive denunciations, instead of guaranteeing the legality of protests and the rights of demonstrators. Although the Attorney General's Office announced that crime prevention prosecutors would remain vigilant to prevent the arbitrary use of force in the context of mobilizations, no action in this area has been reported.

⁵⁸ See <https://img.lpderecho.pe/wp-content/uploads/2023/12/Decreto-Legislativo-1605-LPDerecho.pdf>.

Furthermore, no deployment of prosecutors was observed at the protests, and it was impossible to obtain a response from the prosecutor on duty through the contact information publicized by the institution.

75. Concerns arose over the criminal prosecution of around 900 cases related to demonstrations, with leaders often held accountable for others' actions. The charges included rioting and disrupting public services, leading to severe penalties. Although a special team of prosecutors⁵⁹ is in charge of 65 criminal investigations that are currently in progress relating to the social protests, involving 760 victims, the Special Rapporteur is concerned that, to date, he has not been informed about any criminal or administrative sanctions, or measures, taken against officials responsible for alleged excessive use of force during demonstrations and human rights violations. Additionally, there are no clear records of sanctions against the police and military personnel involved.⁶⁰

76. In response to the recommendation to investigate the allegations raised by human rights mechanisms, the Public Prosecutor's Office has initiated investigations into the human rights violations that occurred during the protests. It set up the special team of prosecutors for cases where people had become victims during the social protests. The team was intended to contribute to expediting investigations with an intercultural and human rights approach. However, concerns have been raised regarding delays in delivering the prosecution files, potentially hindering on-site evidence collection and victims' access to justice. Furthermore, the decision to transfer investigations from the provinces to Lima was criticized for possibly impeding evidence collection and fostering fears of impunity. The creation of an anti-corruption mechanism⁶¹ led to a constitutional complaint against the President, the Premier and former ministers for crimes related to suppressing social protests.⁶²

77. Although investigations have progressed with regard to the identification of victims and the collection of evidence, delays and reports of evidence loss and impunity have raised concerns. Additionally, the suspension of the Public Prosecutor, Liz Patricia Benavides, due to allegations of leading a criminal organization, has further complicated matters. On 5 January 2024, the first preventive detention order was issued against law enforcement agents accused of excessive force during the tenure of the President, Dina Boluarte, highlighting State misconduct.⁶³

78. Investigations against the police and military personnel have been initiated and undertaken with delay. Investigations against the President and high-ranking officials are under way in respect of six victims, with other investigations still at the preliminary stages.⁶⁴

79. Overall, the situation underscored challenges in the investigation process, including delays, a potential lack of diligence, and concerns about the integrity of the institution of the Public Prosecutor. The future trajectory of investigations and the commitment to justice remain uncertain amid ongoing changes and with respect to resource allocations. In this regard, the Special Rapporteur welcomes the fact that the Ministry of the Economy and Finance will allocate 99 million soles to establish human rights offices and intercultural prosecutors' offices, as recommended by the Inter-American Commission on Human Rights.⁶⁵ The initiative seeks to expand the presence of specialized prosecutor's offices nationwide and enhance the capabilities of the Institute of Forensic Medicine and Forensic Sciences to ensure effective crime investigation by the Public Prosecutor's Office.

80. Article 162 of the Constitution entrusts the Office of the Ombudsperson with defending constitutional and fundamental rights, supervising State administration duties, and ensuring the provision of public services. Additionally, the National Mechanism for the Prevention of Torture falls under the expanded mandate of the Office of the Ombudsperson.

⁵⁹ Equipo Especial de Fiscales para casos con víctimas durante las protestas sociales.

⁶⁰ Submission by civil society organizations.

⁶¹ Equipo Especial de Fiscales contra la corrupción del poder.

⁶² Submission by civil society organizations.

⁶³ Ibid.

⁶⁴ See <https://www.defensoria.gob.pe/wp-content/uploads/2023/03/Informe-Defensorial-n.%C2%B0-190-Crisis-poli%CC%81tica-y-protesta-social.pdf>.

⁶⁵ Supreme Decree No. 109-2023-EF.

This mechanism aims to identify and prevent torture and other forms of inhuman treatment, especially in situations of detention. During the social protests of December 2022, the National Mechanism for the Prevention of Torture intervened to assess risks of torture or ill-treatment for individuals deprived of liberty, which highlighted the importance of its role in safeguarding human rights during periods of unrest.

81. The Special Rapporteur noted that, during the initial three months of the crisis from December 2022 to February 2023, the Office of the Ombudsperson diligently fulfilled its responsibilities, monitoring and supervising State entities across the country, particularly in crisis-affected regions. Its focus on vulnerable populations and its support for victims' families played a crucial role. Therefore, the Special Rapporteur expressed his concern about the lack of transparency and public debate in the appointment of the new Ombudsperson, which coincided with the end of the visit of the Special Rapporteur in May 2023, which raises questions about the Office's independence and its essential role in safeguarding democracy and human rights.

82. In the face of the latest legislative changes threatening the right to peaceful protest and personal freedoms, the Special Rapporteur notes that the Office of the Ombudsperson has remained alarmingly silent. The incumbent's ambiguous discourse on peaceful protest has been criticized for allegedly encouraging the indiscriminate use of the state of emergency and justifying police intervention against protesters. A report from December 2023 indicated the potential criminalization of peaceful protests by repeatedly using the term "confrontation" in reference to demonstrations, suggesting a justification for disproportionate police action.⁶⁶

83. The Government explained that a multisectoral commission had been set up to provide support with regard to human rights violations occurring during a political crisis that had started on 7 December 2022. It had provided financial aid to bereaved families and seriously injured individuals from the protests, totalling 7,025,000 soles (\$1,899,024), in respect of 63 deceased persons and 155 injured persons. It concluded its mandate in July 2023. According to the information received, the investigations into criminal responsibility have been progressing slowly. Medical care initiatives addressed physical and psychosocial needs, but specific details are lacking. However, concerns have arisen over the lack of cultural relevance and gender-specific considerations in reparations, despite some efforts by the Ministry of Women and Vulnerable Populations. Information on measures incorporating the best interests of children during social conflicts is limited.

B. Confidence in democratic institutions

84. Regarding the implementation of measures to restore citizens' confidence in democratic institutions, the Special Rapporteur noted the challenge of distrust in public institutions, especially due to persistent discrimination and inequalities faced by a large part of the population.

85. In this regard, the Government noted that the National Electoral Authority had shown that there had been an increase in the participation of candidates from Indigenous Peoples in subnational elections. However, the Special Rapporteur emphasized that much more needed to be done to increase the political representation of rural areas, Indigenous communities and people of African descent, and to address existing inequalities in access to economic, social, cultural and environmental rights in the country. In addition, Directorial Resolution No. 000002-2023-DGCI/MC, of September 2023, had approved the 2023 activities plan of the "Peru without Racism" strategy.

86. Over the past seven years in Peru, six presidents have ruled, with only two of them having won through direct elections. Data have shown a widespread distrust in the Congress of the Republic and other public authorities and in the media, which are perceived as being aimed at restricting and concentrating political power, examples allegedly being the capture of the Constitutional Court, the intervention of electoral bodies, and even intervention in the

⁶⁶ Submissions by civil society organizations.

appointment of the Ombudsperson, generating serious risks for access to justice and to democracy.⁶⁷

87. The declining trust in political parties also affects the relationship between the central Government and the provinces. Local elections, particularly in the south, are dominated by regional movements and independent candidates, perceived as closer to voters but often as weak and volatile as their national counterparts. Independent candidates secured over 50 per cent of regional governorships and local authorities in the 2022 elections, highlighting a lack of connection between large party structures and local grass roots.⁶⁸

88. In his latest assessment on the country, the Special Rapporteur of the Inter-American Commission on Human Rights raised his concern about the situation of freedom of expression in the country, identifying major tensions between the Government, the Congress and the media, exacerbated in the context of protests and polarized elections. He noted that the institutional crisis of December 2022 and subsequent protests had revealed patterns of polarization and potential authoritarianism. The challenges include lack of State transparency, violence against the press and the stigmatization of protesters.⁶⁹

89. The Special Rapporteur on the rights to freedom of peaceful assembly and of association also noted that urgent measures and legal reforms were needed to address the crisis, including transparency, the prioritization of public interests, anti-corruption efforts and human rights protection. In addition, the extensive use of emergency measures, the suspension of rights, and restrictions on protest locations severely curtailed peaceful assembly rights.

90. The regulations governing the right to protest in Peru focus primarily on maintaining and restoring public order, emphasizing standards for the use of force. Notably, there is no legal provision emphasizing the facilitation of meetings or institutionalizing spaces for consultation with protest organizers. While informal spaces for dialogue have existed in Lima during stable political times, they are typically limited to high-profile social organizations or non-controversial agendas. The engagement of civilian authorities within the context of protest management is confined to deciding whether to grant guarantees for demonstrations, leaving the interaction with protesters solely under the purview of the National Police.

91. The Special Rapporteur notes the lack of regulations for governing the procedure for dispersal, which is subject to the discretion of police officers, but without an obligation to record the justification.

92. Regarding registration of weapons, ammunition, operatives and warrants, Peruvian police officers can participate in demonstrations using personal, unregistered weapons, whose presence in operations is not reported. In accordance with the manual on operations planning of the National Police, telephone communications in the field and between law enforcement officers are not recorded, with a reliance only on general written documentation before interventions. There are no human rights standards for procuring weapons and crowd control equipment, with a lack of transparency in procurement based on technical specifications. The use of rubber pellets in Lima contrasts with the use of metal pellets, bullets, and war weapons such as AKM and Galil rifles in other regions. Reports from some civil society organizations about the absence of precise regulations covering the use of less-lethal weapons during protests raise concerns about human rights compliance and public access to information, which also pose risks for law enforcement officers. In this regard, the Special Rapporteur observes that, on 19 July 2023, the Government adopted Directive No. 13-2023-CG PNP/EMG for the adequate use of non-lethal or less lethal police means in police operations of control, maintenance and reestablishment of public order.

⁶⁷ See

<https://cdn.www.gob.pe/uploads/document/file/5069901/Per%C3%BA%3A%20Percepci%C3%B3n%20Ciudadana%20sobre%20Gobernabilidad%2C%20Democracia%20y%20Confianza%20en%20las%20Instituciones%3A%20Enero-Junio%202023.pdf>.

⁶⁸ See <https://www.crisisgroup.org/latin-america-caribbean/peru/104-unrest-repeat-plotting-route-stability-peru>.

⁶⁹ See [https://www.oas.org/es/cidh/expresion/publicaciones/Informe%20Libex%20Peru%20\(7\).pdf](https://www.oas.org/es/cidh/expresion/publicaciones/Informe%20Libex%20Peru%20(7).pdf).

93. Regarding the identification of law enforcement officers, there are no specific provisions to ensure the identification of police officers who participate in operations during demonstrations that would require them to wear badges that are visible from a distance. The National Police uniform regulations only require a 7.5 x 1.5 cm badge to be worn, which is only visible at very close range and which is often covered by waistcoats. Even in situations where there is an audiovisual record of arbitrary use of force or of other police abuses, it is extremely difficult to identify the perpetrators. There have even been cases reported where officers have registered false names or nicknames on their badges in order to avoid identification. It is also a recurrent practice for undercover police officers to infiltrate demonstrations.

94. In the light of the due diligence standards, the business sector allegedly bears a significant responsibility for violations of the right to protest in Peru. Fifty-one per cent of deaths in the context of protests between January 2003 and November 2022 took place in the sphere of influence of extractive industries. According to some civil society organizations, one factor widely linked to the arbitrary use of force against protesters is the provision of private security services to companies by the National Police.

95. The Constitutional Court has ruled on this issue, indicating that these services can only be provided when it is guaranteed that there is no conflict of interest. However, in practice, there is no regulatory development that has included these requirements in the procedures for the conclusion of agreements between the National Police and companies.

VI. Conclusions and recommendations

96. The rights to peaceful assembly and association serve as vital democratic tools for marginalized groups to peacefully voice their grievances, and to prompt authorities to address their needs. Guaranteeing and facilitating these rights enables peaceful resolution of social conflicts, and leads to the adoption of policies addressing the concerns of affected groups.

97. The Special Rapporteur is alarmed by the alleged excessive force used to suppress the December 2022 protests, in relation to the disproportionate deaths and injuries, particularly among Indigenous and rural communities. This response violates both international standards and the Constitution of Peru, which safeguard these fundamental freedoms. The repression, coupled with the stigmatization of protesters, represents a missed opportunity for the country to address the root causes of the protests, which include inequalities, discrimination, poverty, unfair distribution of wealth and resources, environmental degradation, and lack of public participation.

98. In order to address the current crisis, which has been exacerbated by the repression of the protests, Peruvian authorities must engage in broad and genuine consultations with Indigenous and rural communities, in order to tackle the root causes and grievances expressed by protesters. Ensuring effective accountability mechanisms will be pivotal in identifying and prosecuting those responsible at all levels of the State, and in providing effective remedies and reparations for victims and families.

99. Institutional reforms are needed to restore trust in democratic institutions, especially among Indigenous and rural communities. Political parties and Congress, as their elected representatives, must prioritize the interests of these communities over their own. Additionally, ensuring a separation of powers and a balance of powers between the legislative, executive and judicial branches is necessary in order to ensure institutional stability and uphold the respective mandates of each branch without encroaching on each other's rights.

100. Security sector reform is also crucial to equip law enforcement agents with proper training and resources, enabling them to facilitate peaceful expression through protests and assemblies. This reform should aim to foster trust between law enforcement authorities and marginalized, Indigenous and rural communities who perceive them as repressive.

101. In order for the country to move forward and to effectively tackle deepening inequalities and strengthen social cohesion, civil society and trade unions play a crucial role as potential government allies in addressing poverty, inequality and discrimination in Peru.

They have long monitored human rights violations, supported victims and voiced community grievances. Recent protests have underscored their importance as reliable partners for marginalized communities. To sustain this role, the Government must create an environment that supports and acknowledges civil society's work, including civil society organizations focusing on environmental issues and business and human rights issues.

102. More specifically, in order to foster public participation and representation, the Special Rapporteur recommends that the Government:

(a) **Fully implement the international standards outlined in general comment No. 37 (2020) of the Human Rights Committee and in the Indigenous and Tribal Peoples Convention, 1989 (No. 169), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98);**

(b) **Promote national dialogue, democracy and human rights to rebuild social cohesion, involving communities, especially Indigenous and rural communities that participated in protests;**

(c) **Ensure a safe, non-discriminatory environment for exercising the rights to peaceful assembly and association;**

(d) **Address the root causes of protests, including historical and socio-environmental conflicts, ensuring to everyone the full enjoyment of civil, political, economic, social and cultural rights;**

(e) **Uphold the electoral authorities' independence, preventing them from being politically instrumentalized.**

103. In addition, in order to facilitate the right to freedom of association and assembly, and consistent with the provisions of international law, the Government should:

(a) **Amend recent legal reforms undermining the right to peaceful assembly and association and implement measures to prevent the stigmatization and criminalization of social protests. This includes ensuring that public authorities refrain from making stigmatizing statements against civil society, including journalists, media workers and human rights defenders, and avoid promoting intolerance, racism, discrimination or deliberate misinformation;**

(b) **Implement measures to prevent the stigmatization and criminalization of social protests and protesters and adopt legal and policy reforms to protect and promote the right to peaceful assembly and association in line with international standards;**

(c) **Guarantee that there are no widespread restrictions on the right to peaceful assembly, including by lifting "zoning" constraints on peaceful protests in Lima and other regions;**

(d) **End all forms of alleged arbitrary criminal investigations initiated against civilians in the context of social protests; ensure that pretrial detention meets the requirements of proportionality and exceptionality, and non-discrimination; and guarantee compliance with international standards within the context of the investigations of Indigenous people, especially with regard to ensuring the rights to interpretation and to access to alternative measures of detention.**

104. The Government should promote democracy by ensuring accountability, transparency, and access to remedies for victims. In this regard, the Special Rapporteur further recommends:

(a) **Conducting and concluding ongoing investigations into recent protest-related human rights violations, prioritizing a victim-centred and human rights-based approach;**

(b) **Adopting urgent actions to identify and prosecute those responsible for excessive use of force, to prevent the recurrence of violations, and to enhance the capacity of local judicial authorities for prompt and independent investigations;**

- (c) **Reform of the justice system to ensure the independence and impartiality of judicial proceedings related to the protests;**
- (d) **Addressing corruption and impunity, and ensuring that the judiciary, including the prosecution, acts independently and responsibly in order to fully preserve the rights to peaceful assembly and association and all human rights;**
- (e) **Ensuring that all victims of violations and abuses of the rights to freedom of peaceful assembly and of association have access to effective judicial remedies and obtain redress and reparation, including free access to justice and health care. Reparations should be provided through the adoption of a comprehensive policy that considers the severity of injuries and their impact on victims and their families. This involves the State covering the cost of medical treatment for injured persons and ensuring adequate compensation and reparations for all victims;**
- (f) **Creating an effective, well-resourced and independent oversight mechanism to investigate the conduct of law enforcement officials, including high-ranking officials, in the context of protests;**
- (g) **Increasing the human and financial resources for the Office of the Ombudsperson and guaranteeing its independence, taking into consideration the important role that this institution plays in prevention and accountability for human rights violations in the country;**
- (h) **Ensuring that members of law enforcement undergo training to effectively manage peaceful assemblies, including developing a protocol aligned with international standards and best practices. This protocol should prioritize de-escalation and negotiation strategies in order to minimize the use of force. Additionally, authorities must ensure that police are properly equipped to manage peaceful protests without military assistance, even in volatile situations. Disproportionate force should be avoided, and the importance of maintaining peaceful demonstrations within a framework of respect for human rights should be emphasized;⁷⁰**
- (i) **Refraining from any use of lethal weapons, and prohibiting the use of rubber bullets and other indiscriminate less-lethal weapons in the facilitation of peaceful protests.**

105. The Special Rapporteur reiterates the recommendations of the Human Rights Committee, urging Peru to carry out a process of legislative review and reform aimed at ensuring respect for human rights in all counter-terrorism actions, including the revision of the definition of terrorism which must comply with international standards.

106. With regard to the international community, the Special Rapporteur recommends establishing a commission of inquiry on the State's response to recent protests, and that technical assistance be offered by the United Nations and civil society organizations working on accountability for protest-related victims. The international community and financial institutions should support Peru in resolving its institutional and social crises, addressing inequalities and assisting the most vulnerable populations.

⁷⁰ See A/HRC/55/60.